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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jan 19, 2018

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

KENNETH KLUTH and STEPHEN

SCHENK,

Plaintiffs,

v.

SANTANDER CONSUMER USA INC.,

and AUTO TRACKERS AND

RECOVERY NORTH, LLC,

Defendants.

NO. 1:17-cv-03149-SAB

**JURY TRIAL SCHEDULING
ORDER**

**JURY TRIAL SCHEDULED FOR
AUGUST 20, 2018**

A telephonic scheduling conference was held on this matter on January 16, 2018. Alexander B. Trueblood and Kirk D. Miller appeared on behalf of Plaintiffs, and Karleen J. Scharer and Stephen G. Skinner appeared on behalf of Defendant.

The Court has heard from counsel, is fully informed, and orders the following schedule for jury trial in this matter.

Accordingly, **IT IS ORDERED:**

PROFESSIONALISM AND COURT-ASSISTED MEDIATION

1. Civility and Professional Conduct. Counsel should review and employ Local Rule 83.1 (Civility) and Washington Rule of Professional Conduct 3.4 (Fairness to Opposing Party and Counsel).

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1 **2. Scheduling Order is Binding.** Rule 16(f) of the Federal Rules of Civil
2 Procedure provides for sanctions for failure to obey the Scheduling Order.
3 **3. Settlement Conference/Mediation.** The parties are encouraged to engage in
4 settlement negotiations as early as possible and should contact the Court if they
5 believe a settlement conference would be helpful.

6 **TRIAL DATES**

7 **4. Jury Trial.** The jury trial shall commence on **August 20, 2018 at 9:00 a.m.** in
8 **SPOKANE**, Washington. Counsel estimates a trial length of 7 days.
9 **5. Pretrial Conference.** An in-person pretrial conference will be held on **August**
10 **6, 2018, at 2:00 p.m.** in **SPOKANE**, Washington.

11 **DISCOVERY DEADLINES**

12 **6. Initial Disclosures.** The parties have already disclosed their initial disclosures.
13 **7. Expert Disclosures.**

14 A. *Initial Expert Disclosures.* Each Party shall identify its experts and serve
15 written reports as required by Rule 26(a)(2) on all other parties no later than
16 **January 2, 2018.** Each Party shall also provide dates for which those experts can
17 be available for deposition.

18 B. *Rebuttal Expert Disclosures.* Each Party shall identify its rebuttal experts
19 and serve written reports as required by Rule 26(a)(2) on all other parties no later
20 than **February 1, 2018.** Each Party shall also provide dates for which those
21 experts can be available for deposition.

22 C. *Modifications.* The parties may modify the deadline for exchange of
23 expert disclosures by joint stipulation filed with the court; a motion is not
24 required.

25 **8. Discovery.**

26 A. *Discovery Deadline.* All discovery shall be completed on or before **April**
27 **2, 2018.**

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B. Responses. To be timely, discovery requests must be served sufficiently in advance of the deadline to allow for timely response by the cutoff date.

C. Necessity. The parties shall file no discovery except as necessary to support motions or objections.

D. Discovery Conferences. To avoid wasted time and expense, Counsel may contact chambers to schedule a telephonic conference to obtain an expedited ruling on discovery disputes. Prior to the conference, each party may submit to the Court a one page summary explaining the discovery dispute.

MOTION DEADLINES

9. Motions to Amend Pleadings or Add Parties. Any motion to amend the pleadings or add named parties shall be filed and served by **January 22, 2018**.

10. Daubert Motion Deadline. Challenges to the admissibility of expert opinion testimony shall be made by written motion and filed by **February 9, 2018**. If the party challenging expert testimony anticipates that an evidentiary hearing shall be required, the party shall so advise the Court and opposing counsel in conjunction with the filing of its motions.

11. Dispositive Motions. All dispositive motions shall be filed and served on or before **April 10, 2018**.

12. Motions *in Limine*.

A. *Motions in Limine*: shall be filed and served on or before **July 9, 2018**.

B. Responses: shall be filed and served on or before **July 16, 2018**.

C. *Replies*: shall be filed and served on or before **July 23, 2018**.

D. *Notation*: Motions *in limine* shall be noted for hearing at the pretrial conference.

TRIAL PREPARATION DEADLINES

13. Exhibit and Witness Lists.

A. Exhibit Lists and Witness Lists: shall be filed and served and exhibits made available for inspection (or copies provided), on or before **July 16, 2018**.

1 B. *Identification*: The witness list shall include identification of each
2 witness's testimony.

3 C. *Notation of Exhibits*: Where feasible, all exhibits identified in
4 depositions shall be pre-marked with the exhibit numbers that will be used at trial.
5 Plaintiff's trial exhibits are to be numbered 1 through 199; Defendant's exhibits
6 are to be numbered 200 and following.

7 D. *Objections*: Objections to the opposing party's witness list or exhibit list
8 and any accompanying briefs shall be filed and served on or before **July 23, 2018**.

9 E. *Responses*: Responses, if any, to objections shall be filed and served on
10 or before **July 30, 2018**.

11 **14. Pretrial Exhibit Stipulation.**

12 A. *Stipulation*: The parties shall prepare a pretrial exhibit stipulation that
13 shall contain each party's numbered list of all trial exhibits with the opposing
14 party's objections to each exhibit, including the basis of the objection and the
15 offering party's brief response. All exhibits to which there is no objection shall be
16 deemed admitted, subject to any objections at trial that could not be raised in
17 advance.

18 B. *Deadline*: The pretrial exhibit stipulation shall be filed on **July 30, 2018**.

19 C. Objections to witness and exhibits shall be heard at the pretrial
20 conference.

21 **15. Designation of Testimony.**

22 The parties shall notify the Court on or before **July 9, 2018** whether
23 deposition testimony will be used at trial. The Court will then schedule a hearing
24 to review all designated testimony and objections so that a final edited version of
25 the deposition testimony can be prepared for trial.

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1 **16. Pretrial Order.**

2 A. *Deadline*: A joint Pretrial Order, prepared in accordance with the format
3 provided in Local Rule 16.1(b), shall be filed on or before **July 30, 2018** and a
4 copy e-mailed in Word format to the Court at bastianorders@waed.uscourts.gov.

5 B. *Consistency*: The list of exhibits contained in the joint Pretrial Order
6 shall reflect the exhibit marking scheme described above in paragraph 10(A).

7 C. *Duplicative Exhibits*: In preparing the joint Pretrial Order, the parties
8 shall confer regarding duplicate exhibits and determine which party will submit
9 such exhibits for trial.

10 **17. Trial Briefs and Proposed Voir Dire.** Trial briefs and voir dire shall be filed
11 by **July 26, 2018**.

12 **18. Jury Instructions.** No later than **July 26, 2018**, the parties shall file jointly
13 proposed jury instructions.

14 A. *Confer*. The parties shall confer regarding jury instructions and file
15 jointly proposed jury instructions and a table of proposed Jury Instructions. The
16 jointly proposed Jury Instructions should address only issues that are unique to
17 this case and shall include instructions regarding the elements of each claim, any
18 necessary definitions, and a proposed verdict form.

19 B. *Modifications*. If any proposed instruction is a modified version of model
20 instructions or deviate from model instructions, the parties shall identify the
21 modification and cite legal authority for the modification.

22 **19. Submissions on the First Day of Trial.** The Court requires that the following
23 be submitted to the courtroom deputy clerk on the first day of trial:

24 A. *Exhibits*. Exhibits for presentation at the trial in tabbed binders indexed
25 by exhibit number with exhibit tags placed consistently on the bottom right corner
26 of each exhibit. Counsel shall submit to the Court an original binder and two
27 copied binders of their exhibits together with three discs or flash drives containing
28 the same.

B. *Exhibit List.* One copy of a final joint exhibit list.

C. Witness List. One copy of witness lists in the order in which the witnesses are expected to be called to testify.

MODIFICATIONS

20. Good Cause. Pursuant to Rule 16 of the Federal Rules of Civil Procedure, this schedule shall not be modified unless the Court finds good cause to grant leave for modifications.

IT IS SO ORDERED. The District Court Clerk is hereby directed to enter this Order and to provide copies to counsel.

DATED this 19th day of January 2018.



Stanley A. Sestan

Stanley A. Bastian
United States District Judge